

REMARKS

The Examiner requests a listing of related co-pending applications and patents. Applicant is aware of the following patent and co-pending applications having a similar disclosure:

1. Application Serial No. 10/084,590
Now U.S. Patent No. 6,589,238

2. Application Serial No. 09/073,467
Filed: 09 October 2001
Title: Method for Treating a Sphincter
Examiner: Peffley, Michael F.

3. Application Serial No. 10/428,458
Filed: 2 May 2003
Title: GERD Treatment and Apparatus
Examiner: Unknown

4. Application Serial No. 10/230,655
Filed: 29 August 2002
Title: GERD Treatment Apparatus and Method
Examiner: Unknown

The Applicant notes the following related patents and applications:

1. Application Serial No. 09/036,091
Now U.S. Patent No. 6,092,528
2. Application Serial No. 09/235,060
Now U.S. Patent No. 6,254,598
3. Application Serial No. 09/304,784
Now U.S. Patent No. 6,440,128
4. Application Serial No. 09/304,737
Now U.S. Patent No. 6,464,697
5. Application Serial No. 10/046,637
Now U.S. Patent No. 6,652,034
6. Application Serial No. 09/032,367
Now U.S. Patent No. 6,044,846
7. Application Serial No. 09/304,750
Now U.S. Patent No. 6,402,744
8. Application Serial No. 09/304,733
Now U.S. Patent No. 6,355,031
9. Application Serial No. 09/476,537
Now U.S. Patent No. 6,547,776
10. Application Serial No. 09/304,773

Now U.S. Patent No. 6,258,087

11. Application Serial No. 09/304,743

Now U.S. Patent No. 6,325,798

12. Application Serial No. 09/304,770

Now U.S. Patent No. 6,423,058

13. Application Serial No. 09/524,432

Now U.S. Patent No. 6,544,226

14. Application Serial No. 09/556,169

Filed: 21 April 2000

Title: Systems and Methods for Treating Dysfunctions in the Intestines
and Rectum

Examiner: Vrettakos, Peter J

15. Application Serial No. 09/921,356

Filed: 2 August 2001

Title: Apparatus to Treat Esophageal Sphincters

Examiner: Peffley, Michael F.

16. Application Serial No. 09/955,915

Filed: 19 October 2001

Title: Devices, Systems and Methods for Treating Tissue Regions of the
Body

Examiner: Ruddy, David M.

17. Application Serial No. 09/776,140

Filed: 2 February 2001

Title: Sphincter Treatment Apparatus

Examiner: Peffley, Michael F.

18. Application Serial No. 09/924,935

Filed: 8 August 2001

Title: Apparatus to Detect and Treat Aberrant Myoelectric
Activity

Examiner: Peffley, Michael F.

19. Application Serial No. 09/971,085

Filed: 4 October 2001

Title: Apparatus to Treat Esophageal Sphincters

Examiner: Peffley, Michael F.

20. Application Serial No. 10/254,471

Filed: 25 September 2002

Title: Method for Treating a Sphincter

Examiner: Unknown

21. Application Serial No. 10/155,294

Filed: 24 May 2002

Title: Systems and Methods for Forming Composite Lesions to Treat
Dysfunction in Sphincters and Adjoining Tissue Regions

Examiner: Peffley, Michael F.

22. Application Serial No. 10/017,906

Filed: 14 December 2001

Title: Systems and Methods Employing a Guidewire for Positioning and
Stabilizing External Instruments Deployed Within the Body

Examiner: Unknown

23. Application Serial No. 09/026,086
Now U.S. Patent No. 6,006,755

24. Application Serial No. 09/410,448
Now U.S. Patent No. 6,405,732

25. Application Serial No. 10/156,505
Filed: 28 May 2002
Title: Method to Treat Gastric Reflux Via the Detection and
Ablation of Gastro-Esophageal Nerves and Receptors
Examiner: Peffley, Michael F.

26. Application Serial No. 09/026,316
Now U.S. Patent No. 6,056,744

27. Application Serial No. 09/026,296
Now U.S. Patent No. 6,009,877

28. Application Serial No. 10/405,746
Filed: 02 April 2003
Title: Sphincter Treatment Apparatus
Examiner: Unknown

Claims 83-110 have been canceled.

Claims 1-82 remain pending in the application. Of these, claims 1 and 50-82 are currently amended.

Claims 44 and 77 are rejected under 35 U.S.C. 101 and under 35 U.S.C. 112, second paragraph. Claims 1 and 50 have been amended to overcome these rejections.

Claims 50-82 have been amended to more particularly state the subject matter being claimed.

Claims 44 and 77 are rejected under 35 U.S.C. 102(e) as anticipated by Edwards U.S. 5,505,730 (Edwards '730). Applicant respectfully traverses this rejection. The Examiner indicates that independent claim 1 is allowable, but for double patenting rejections. Applicant therefore

believes claim 44, which depends from claim 1, is therefore also allowable, but for the double patenting rejections. The Examiner also indicates that independent claim 50 is allowable, but for the double patenting rejections. Applicant therefore believes claim 77, which depends from claim 50, is therefore also allowable, but for the double patenting rejections.

Claims 1-82 are rejected under the doctrine of obviousness-type double patenting over claims 1-88 of U.S. Patent No. 6,056,744 (the '744 Patent), claims 1-51 of U.S. Patent No. 6,254,598 (the '598 Patent), claims 1-5 of U.S. Patent No. 6,423,058 (the '058 Patent), and claims 1-40 of U.S. Patent No. 6,440,128 (the '128 Patent). Claims 1-82 are provisionally rejected under the doctrine of obviousness-type double patenting over the claims of copending Applications Serial Nos. 09/776,140 (the '140 Application), 09/971,085 (the '085 Application), and 10/084,590, now U.S. Patent No. 6,589,238 (the '238 Patent). Applicant will submit terminal disclaimers based on the '744 Patent, the '598 Patent, the '058 Patent, the '128, and the '238 Patent upon indication of allowable subject matter, but for the double patenting rejections. Applicant respectfully requests that any double patenting issues with respect to the instant Application and the '140 and '085 Applications be addressed upon the issuance of one case and the indication of allowable subject matter in the other case, but for the double patenting rejection.

Respectfully Submitted,

By Patricia A. Limbach
Patricia A. Limbach
Registration No. 50,295

RYAN KROMHOLZ & MANION, S.C.

Post Office Box 26618

Milwaukee, Wisconsin 53226

(262) 783 - 1300

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Customer No.: 26308

Case# 16792-CON/031102 Amend B

Enclosures: Amendment Transmittal Letter
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